

# **National Maritime Security Advisory Committee Bylaws**

## **ARTICLE I            AUTHORITY**

As provided for in the Maritime Transportation Security Act of 2002 (Public Law 107-295), the Secretary of Homeland Security has established the National Maritime Security Advisory Committee (NMSAC). The committee shall operate in accordance with the provisions of the Federal Advisory Committee Act (FACA) (5 United States Code, Appendix).

## **ARTICLE II            PURPOSE**

NMSAC will advise, consult with, and make recommendations to the Secretary of Homeland Security, via the Commandant of the Coast Guard, on matters relating to national maritime security

## **ARTICLE III           MEMBERSHIP AND MEMBER RESPONSIBILITIES**

Section 1.     **Composition.** NMSAC will be composed of not less than seven members who are appointed by and serve at the pleasure of the Secretary of Homeland Security. Each member shall have at least five years practical experience in maritime security operations. The membership shall include:

- at least one individual who represents the interests of the port authorities;
- at least one individual who represents the interests of the facilities owners or operators;
- at least one individual who represents the interests of the terminal owners or operators;
- at least one individual who represents the interests of the vessel owners or operators;
- at least one individual who represents the interests of the maritime labor organizations;
- at least one individual who represents the interests of the academic community;
- at least one individual who represents the interests of State and local governments; and
- at least one individual who represents the interests of the maritime industry.

Section 2.     **Appointment.** Members of NMSAC are appointed by and serve at the pleasure of the Secretary upon the recommendation of the Commandant of the Coast Guard. Appointments are personal to the member and cannot be transferred to another individual. Members may not designate someone to attend in their stead, participate in discussions, or vote.

Section 3.     **Terms of Office.** Members shall serve terms of office up to five years and approximately one-third of members' terms of office shall expire each year. In

the event the committee terminates, all appointments to the committee shall terminate.

Section 4. **Certification of Non-Lobbyist Status.** All members of NMSAC must annually self-certify that they are not registered lobbyists under the Lobbying Disclosure Act, 2 United States Code, section 1603, and must advise the Department of Homeland Security (DHS) if they register as a lobbyist while serving on NMSAC. Members who register as a lobbyist after their appointment or re-appointment will be replaced on the committee. Members appointed to NMSAC prior to June 18, 2010, who are registered lobbyists are permitted to serve the remainder of their term of office. Candidates for appointment must self-certify that they are not registered lobbyists under the Lobbying Disclosure Act. The Designated Federal Officer (DFO) will assure that candidates for appointment are not lobbyists registered under the Lobbying Disclosure Act.

Section 5. **Security Clearances.** Due to the nature of NMSAC's purpose, members will be required to apply for and obtain a government-sponsored national security clearance at the secret level.

Section 6. **Members' Responsibilities.** Because the membership of NMSAC is constructed to balance as many aspects and viewpoints of the industry as possible, member attendance and participation at meetings is vital. Members are expected to personally attend and participate at committee meetings. The Commandant of the Coast Guard shall recommend to the Secretary that any member who is unable to fulfill their responsibility be replaced on the committee.

Members of NMSAC may be recommended for removal for reasons such as, but not limited to:

- a. Failure to obtain an appropriate security clearance;
- b. Missing two consecutive meetings without a valid reason that is acceptable to the Chair of the Committee and the DFO, or not participating in the committee's work;
- c. Registering as a lobbyist after appointment;
- d. Engaging in activities that are illegal or violate the restrictions on members' activities as outlined below.

Section 7. **Restriction on Members' Activities.**

- a. Members may not use their access to the Federal Government as a member of this committee for the purpose of soliciting business or otherwise seeking economic advantage for themselves or their companies. Members may not use any non-public information obtained in the course of their duties as a member for personal gain or for that of their company or employer. Members must hold any non-public information in confidence.
- b. The committee as a whole may advise the agency on legislation or recommend legislative action. In their capacities as members of NMSAC, individual members may not petition or lobby Congress for or against particular legislation or encourage others to do so.

- c. Members of NMSAC are advisors to the agency and have no authority to speak for the committee, the Coast Guard or for the Department outside the committee structure.
- d. Members may not testify before Congress in their capacity as a member of NMSAC. If requested to testify before Congress, members of NMSAC:
  - 1. Cannot represent or speak for the committee, DHS, any agency, or the Administration in their testimony;
  - 2. Cannot provide information or comment on committee recommendations that are not yet publicly available;
  - 3. May state they are a member of the committee; and,
  - 4. May speak to their personal observations as to their service on the committee.
- e. If speaking outside the committee structure at other forums or meetings, the restrictions in section d. also apply.

## ARTICLE IV            OFFICIALS

Section 1.    **Chairperson and Vice-Chairperson** . Members of NMSAC elect one member as the Chair and one member as Vice-Chair annually, in cooperation with the Director of Inspections and Compliance. The Vice-Chair will act as a Chair in the absence or incapacity of the Chair or in the event of a vacancy in the office of the Chair. The term of office of the Chair and Vice-Chair will be one year, and members may serve more than one term. The Chair and Vice-Chair will work with the DFO to develop agenda, establish priorities, etc., and certify the accuracy of minutes.

Section 2.    **Designated Federal Officer:** The Designated Federal Officer (DFO) serves as the Department's agent for all matters related to NMSAC and is appointed by the Coast Guard Director of Inspections and Compliance. In accordance with the provisions of the FACA, the DFO must:

- a. Approve or call meetings of the committee and its subcommittees;
- b. Approve agendas for committee and subcommittee meetings;
- c. Attend all meetings;
- d. Adjourn meetings when such adjournment is in the public interest; and,
- e. Chair meetings of the committee when directed to do so by the Coast Guard Director of Inspections and Compliance.

In addition, the DFO is responsible for assuring administrative support functions are performed, including the following:

- a. Notifying members of the time and place of each meeting;
- b. Tracking all recommendations of the committee;
- c. Maintaining the record of members' attendance;
- d. Preparing the minutes of all meetings of the Committee's deliberations, including subcommittee and working group activities;
- e. Attending to official correspondence;

- f. Maintaining official records and filing all papers and submissions prepared for or by the committee, including those items generated by subcommittees and working groups;
- g. Reviewing and updating information on committee activities in the Shared Management System (aka, FACA database) on a monthly basis;
- h. Acting as the Committee's agent to collect, validate and pay all vouchers for pre-approved expenditures; and
- i. Preparing and handling all reports, including the annual report as required by FACA.

Section 3. **Alternate Designated Federal Officer.** An Alternate Designated Federal Officer (ADFO) serves as an assistant to the DFO and performs the functions of the DFO as required by FACA in the DFO's absence. An ADFO is appointed by the Office Chief of Port and Facility Compliance (CG-FAC), in accordance with the provisions of the FACA.

## ARTICLE V MEETING PROCEDURES

Section 1. **Meeting Schedule and Call of Meetings.** Meetings of NMSAC may be held with the approval of the Designated Federal Officer; it is expected the committee will meet a minimum of twice per year. The Designated Federal Officer must attend all committee, subcommittee, work group meetings. All meetings of the Committee and work group must be approved in advance by the DFO.

Section 2. **Agenda.** Agendas for each Committee meeting shall be developed by the DFO in consultation with the Committee Chair and or Vice-Chair. Once an agenda has been approved by the DFO, the DFO will be responsible for distributing the final agenda to the Committee. The DFO will also be responsible for ensuring that for each meeting the agenda are published in the *Federal Register* a minimum of 15 calendar days in advance of the meeting date.

Section 3. **Quorum.** A quorum (fifty percent plus one of the appointed committee members) of the Committee is required to vote on issues being addressed during a Committee meeting. The DFO will determine if a quorum exists prior to each meeting of the Committee. If a quorum does not exist, the meeting may continued but no action may be taken by the Committee or the meeting may be cancelled at the discretion of the DFO.

Section 4. **Tasks.**

- a. The DFO retains sole authority for proposing all task statements to the Committee for consideration. The DFO may receive suggestions from Committee members, the public or the Agency in the formation of a Task Statement. It is the responsibility of the DFO to determine if the task is in accordance with the duties of the Committee as specified in the Committee's approved Charter. If, after review, the DFO determines the proposed task is in accordance with the duties of the Committee, the DFO will place the presentation of the proposed task on the

agenda for the next meeting. The DFO shall also ensure that a copy of the proposed task is placed on the Committee website in advance of the Committee meeting to ensure the public has an opportunity to view the proposed task statement.

b. Once a new Task Statement has been presented to the Committee, the Committee shall select a member (or members) to serve as the chair of the sub-committee to whom the task will be assigned. The chair of the sub-committee shall be responsible for organizing the sub-committee, preparing minutes of meeting from the sub-committee meetings, and for presenting the sub-committee's recommendations to the Committee.

Section 5. **Voting Procedures.** Any item being presented to the Committee for the Committee's approval must be made available to the public in advance of a Committee meeting, must be discussed by the Committee during the meeting, and must receive a majority vote from the Committee. Only Committee members present at a meeting may vote on an item under consideration. No proxy votes will be allowed. All votes must be recorded in the minutes of the meeting (or on the transcript if one is taken).

Section 6. **Minutes.** The DFO will prepare the minutes of each meeting and distribute copies to each committee member. Minutes of open meetings are available to the public upon request. Minutes of closed meetings will also be available to the public upon request subject to the withholding of matters about which public disclosure would be harmful to the interests of the Government, industry, or others, and which are exempt from disclosure under the Freedom of Information Act.

The minutes will include a record of:

- a. The time, date, and place of the meeting;
- b. A list of all attendees including members, staff and the public;
- c. An accurate description of each matter discussed and the resolution, if any, made by the committee;
- d. Copies of reports or other documents received, issued, or approved by the committee; and
- e. An accurate description of public participation, including oral and written statements provided.

The DFO must ensure that the Chair or Vice-Chair certifies the minutes within 90 calendar days of the meeting to which they relate.

Section 7. **Open Meetings.** Unless otherwise determined in advance, all meetings of NMSAC shall be open and announced to the public in a notice published in the Federal Register at least fifteen calendar days before the meeting. Members of the public may attend any meeting or portion of a meeting that is not closed to the public and may offer oral comment at such meeting. Meetings will include a

period for oral comments unless it is clearly inappropriate to do so. Members of the public may submit written statements to NMSAC at any time. All materials provided to the committee shall be available to the public when they are provided to the members. Such materials, including any submissions by members of the public, are part of the meeting record.

**Section 8**      **Closed Meetings.** All or parts of meetings of NMSAC may be closed in limited circumstances and in accordance with applicable law. No meeting may be partially or fully closed unless the component head issues a written determination that there is justification for closure under the provisions of subsection (c) of 5 United States Code, 552b, the Government in the Sunshine Act (Sunshine Act). Where the DFO has determined in advance that discussions during a committee meeting will involve matters about which public disclosure would be harmful to the interests of the government, industry, or others, an advance notice of a closed meeting, citing the applicable exemptions of the *Government in the Sunshine Act*, will be published in the Federal Register. The notice may announce the closing of all or just part of a meeting. If, during the course of an open meeting, matters inappropriate for public disclosure arise during discussions, the DFO or Chairman will order such discussion to cease and will schedule it for a future meeting of the committee that will be approved for closure. No meeting or portion of a meeting may be closed without prior approval and notice published in the Federal Register at least 15 calendar days in advance. Closed meetings can only be attended by DFO, committee members, and necessary agency staff members. Presenters must leave immediately after giving their presentations and answering any questions.

## **ARTICLE VI            EXPENSES AND REIMBURSEMENTS**

The Department of Homeland Security (DHS) is responsible for providing financial and administrative support to NMSAC. Within DHS, the Office of Port and Facility Compliance (CG-FAC), United States Coast Guard, provides this support. Expenditures for committee activities must be approved in advance by the DFO. Members will be reimbursed for travel and per diem expenses.

## **ARTICLE VII           ADMINISTRATION**

The Office of Port and Facility Compliance (CG-FAC), United States Coast Guard, will provide clerical and administrative support for the committee

## **ARTICLE VIII        SUBCOMMITTEES**

The DFO may establish subcommittees for any purpose consistent with this charter. The Chair or Vice-Chair may designate members from the Committee to serve on a subcommittee. The Chair may recommend to the DFO that appropriate non-members be invited by the DFO to serve on a subcommittee. The term of service of a subcommittee member shall be established in the subcommittee's Task Statement. Such subcommittees may not work independently of the chartered committee and must present their work to NMSAC for full deliberation and discussion. Subcommittees have no authority to make decisions on behalf of NMSAC and may not report

directly to the Federal government or any other entity. The subcommittee must be chaired by a member in good standing of the Committee.

#### **ARTICLE IX            RECORDKEEPING**


The DFO is responsible for maintaining all records of the Committee and its formally and informally established subcommittees or other subgroups of the Committee in accordance with General Records Schedule 26, Item 2 or other approved agency records disposition schedule. These records are available for public inspection and copying, in accordance with Freedom of Information Act (Title 5, United States Code, section 552).

#### **ARTICLE X            RECOMMENDATIONS AND REPORTING**

Proposed recommendations are presented to the full NMSAC committee by a subcommittee. These recommendations are discussed, amended as necessary, and voted upon by the full Committee at an official public meeting. Upon approval by the full Committee, they are presented to the Coast Guard by the Committee Chairman. The Coast Guard tracks all NMSAC recommendations and advises the Committee of action taken on its recommendations at its regular semi-annual public meetings.

#### **ARTICLE XI            BYLAWS APPROVAL AND AMENDMENTS**

The DFO may amend these bylaws at any time, and the amendments shall become effective immediately upon approval.

  
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Andrew E. Tucci, CAPT, USCG  
Designated Federal Officer

Date approved: 12 October 2012